

CM-9666-CWP-2023 and
CM-9665-CWP-2023 in
RA-CW-191-2023 in/and
CWP-16736-2017

-1-
2024:PHHC:018889

231

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-9666-CWP-2023 and
CM-9665-CWP-2023 in
RA-CW-191-2023 in/and
CWP-16736-2017
Date of decision: 08.02.2024

AKASH GOYAL

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Hitesh Pandit, Advocate
for the applicants-respondents No.2 to 4.

Mr. Zorawar Singh Chauhan, Advocate
for the non-applicant/petitioner.

Ms. Dimple Jain, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

CM-9666-CWP-2023

Prayer in this application is for condonation of delay of 51 days in
filing the review application.

For the reasons mentioned in the application, the same is allowed
and the delay of 51 days in filing the review application, is hereby condoned.

Application stands disposed of.

**CM-9666-CWP-2023 and
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**-2-
2024:PHHC:018889**

CM-9665-CWP-2023

Prayer in this application is for placing on record Annexure R-A/1 to Annexure R-A/4.

For the reasons mentioned in the application, the same is allowed. Annexure R-A/1 to Annexure R-A/4 are taken on record, subject to all just exceptions.

RA-CW-191-2023

The present is a review application filed by respondents No.2 to 4-HPGCL for reviewing the judgment passed by a Coordinate Bench of this Court (Jaishree Thakur, J.) since demitted her office on 23.07.2023, in CWP-16736-2017. The prayer in the aforesaid writ petition was for grant of appointment to the petitioner on a technical post on the basis of the Policy of the Government, whereby the oustees of land which was acquired for the purpose of establishment of Deen Bandhu Chottu Ram Thermal Power Plant, Yamuna Nagar, were to be given employment. The aforesaid writ petition was allowed by this Court on 23.02.2023 and a direction was issued to the respondents to consider the petitioner for the purpose of appointment to a post in the Oustee category.

The present review application has been filed by respondents No.2 to 4-HPGCL on the ground that at the time when the matter was being adjudicated in the aforesaid writ petition, it was not brought to the notice of this Court by either of the parties that the petitioner was not even eligible for being offered appointment in view of the Policy itself because as per the Policy, only

one member of the family could have been granted the benefit under the Oustee category. However, in the present case, the sister of the petitioner had already been granted appointment under the same Policy of Oustee Policy and she is already on the job. Along with the review application, the aforesaid Policy has also been attached as Annexure R-A/4. The relevant portion of the same is reproduced as under:-

“1.6 The case was submitted for consideration of State Govt. for providing employment by Haryana Power Utilities to one member of the family whose two or more than two acres of land was acquired by the Govt. for setting up of DCRTPP, Yamuna Nagar, on the patter of RGTPP, Khedar, Hisar. Hon’ble Chief Minister accorded the In-principle approval for the same (Annex-3).”

Learned counsel for the review applicants-respondents No.2 to 4 submitted that in view of the aforesaid clear cut Policy, the petitioner was not even eligible for being appointed. He further submitted that in fact the reason as to why the petitioner was claiming the aforesaid appointment was that the father of the petitioner had rather given 2 affidavits, which have also been attached along with the writ petition. One affidavit was for seeking claim for the present petitioner and the another affidavit was for seeking claim for the sister of the petitioner and since there was a heavy workload pertaining to voluminous files, the same could not be detected at the relevant time and therefore, at the time when the writ petition was decided by a Coordinate Bench of this Court, the same could not be brought to the notice of this Court at that point of time.

However, separate action was initiated by the officers, who had filed the reply in the writ petition.

Learned counsel for the non-applicant/petitioner submitted that the aforesaid two affidavits were furnished by the father of the petitioner and was not in the knowledge of the petitioner and therefore, even the petitioner could not bring this to the notice of the Court and the fact that his sister was granted the employment. He further submitted that now he has received specific instructions from the petitioner to state that in case the aforesaid judgment dated 23.02.2023 is reviewed and recalled, then he does not wish to press the writ petition and rather seeks to withdraw the same in view of the fact that admittedly the petitioner was not eligible for being appointed in view of the aforesaid Oustee Policy because his sister already stood appointed and is still working. He also submitted that in fact now the review applicants-respondents No.2 to 4 has issued a show cause notice to the father of the petitioner and the father of the petitioner is being harassed because of the aforesaid show cause notice in which it has been so claimed that necessary action will be taken against him for furnishing two affidavits. He further submitted that once the petitioner has decided to withdraw the main writ petition because it has now come in the knowledge of the parties that the petitioner was not even eligible, then the aforesaid show cause notice should also be withdrawn by the review applicants-respondents No.2 to 4.

On this, Mr. Hitesh Pandit, learned counsel for the review applicants-respondents No.2 to 4 submitted on instructions that the show cause

notice which was issued to the father of the petitioner will not be pressed by the review applicants-respondents No.2 to 4 and the same will be withdrawn in due course in view of the aforesaid facts and circumstances.

After hearing learned counsel for the parties, it appears that a factual mistake had arisen at the time of the final adjudication of the writ petition, which was decided on 23.02.2023, wherein the factual position pertaining to the basic eligibility was not brought to the notice of this Court. Now it has been so admitted by the non-applicant/petitioner himself and he has sought instructions and specifically stated before this Court that since he was not eligible under the Oustee category, he could not have been offered appointment and even otherwise also, a direction was issued to the respondents for considering him for the appointment but till date he has not been appointed, this Court is of the view that it is a fit case for reviewing and recalling of the judgment dated 23.02.2023 passed by a Coordinate Bench of this Court in this regard.

Consequently, the present review application is allowed. The judgment dated 23.02.2023, is hereby recalled and the main writ petition is taken up on Board today itself.

CWP-16736-2017

It is categoric and specific statement made by the learned counsel for the petitioner that he does not wish to press the present writ petition and may be permitted to withdraw the same.

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RA-CW-191-2023 in/and
CWP-16736-2017

-6-
2024:PHHC:018889

The aforesaid prayer is not objected to by the learned counsel for respondents No.2 to 4.

Consequently, the prayer made by the learned counsel for the petitioner for withdrawal of the main petition is accepted.

Dismissed as withdrawn.

08.02.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No